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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/753,999	01/03/2001	Patrick Lodola	1279.029	3449

24113 7590 06/06/2005

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EXAMINER

LAMBRECHT, CHRISTOPHER M

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 06/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/753,999

Applicant(s)

LODOLA, PATRICK

Examiner

Christopher M. Lambrecht

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-9 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. **Claims 1-6, 8, and 9** are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,374,404 to Brotz et al. (hereinafter "Brotz").

Regarding **claim 1**, Brotz discloses a method for the management of a decoder [112] (fig. 1A) that is connected to a television set [105] (fig. 1A) and receives a message (hypertext document) for display (col. 5, ll. 40-44), identified by an address (col. 9, ll. 2-6), from a remote data source [190] (fig. 1A), the method comprising the steps of:

storing a database in a back-up memory [102a] (fig. 2) of the decoder [112] from a collection of messages received from the remote data source (col. 6, ll. 3-5);

updating the database by an updating program [500] (fig. 4) (col. 9, ll. 31-34);

storing from a use of the database, a statistical information table including a statistical information element comprising at least one statistical parameter in the decoder (col. 10, ll. 25-41); and

managing, by the updating program, the capacity of the back-up memory for receiving a new message for display using the statistical information table (col. 10, ll. 34-49).

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As for **claim 2**, Brotz discloses a method according to claim 1, wherein during a request for connection to a desired address of a message for display, the message for display associated with the desired address is first verified as being present in the database (col. 9, ll. 45-54) and, if present, the message is taken from the database (col. 9, ll. 54-65), and if the message is not present, a set of contents of the message for display, located at the desired address, is taken from the remote data source (col. 9, l. 66 - col. 10, ll. 19).

As for **claim 3**, Brotz discloses a method according to claim 1, wherein the remote data source is accessed by at least one network selected from the group consisting of a cable network, a satellite network, and an internet network (cable network and internet network, col. 10, ll. 1-8).

As for **claim 4**, Brotz discloses a method according to claim 1, wherein the remote data source is accessed regularly to obtain an updated set of contents, associated with a message for display, of the database (col. 10, l. 50 - col. 11, l. 20).

As for **claim 5**, Brotz discloses a method according to claim 1, wherein the statistical parameter used is an identifier of the message for display, the identifier being a piece of information by which the message for display can be characterized, and the piece of information comprising an address or a word (col. 9, ll. 2-9).

As for **claim 6**, Brotz discloses a method according to claim 1, wherein a statistical information element comprises a statistical parameter pertaining to a frequency of use of the message for display (col. 10, ll. 25-33), and wherein

when a message for display cannot be saved in the back-up memory, a message for display present in the database is eliminated, starting with a least used message (col. 10, ll. 34-41).

As for **claim 8**, Brotz discloses a method according to claim 1, wherein the back-up memory [102a] is placed in the decoder [112] (see fig. 2).

As for **claim 9**, Brotz discloses a method according to claim 1, wherein when a use of the decoder allows, the database is updated (col. 10, l. 58 - col. 11, l. 20).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claim 7** is rejected under 35 U.S.C. 103(a) as being unpatentable over Brotz in view of Picco (of record).

Regarding **claim 7**, Brotz discloses a method according to claim 1, wherein the decoder [112] is associated with a server of an operator [190] (see fig. 1A).

However, Brotz fails to explicitly disclose a set of contents pertaining to the statistical information table is sent to the server, and a message for display selected according to a profile set up on the basis of the table is received from the server.

In an analogous art, Picco discloses a set of contents pertaining to the statistical information table is sent to the server [102] (fig. 4) (p. 13, ¶2, ll. 1-3 & p. 14, ¶2, l. 16 - p. 15, ¶1, l. 1), and a message for display selected according to a profile set up on the basis of the table is received from the server (p. 15,

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¶1, ll. 3-13), for the purpose of selecting local content for distribution based on usage statistics (p. 15, ¶1, ll. 7-9).

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Brotz to include a set of contents pertaining to the statistical information table is sent to the server, and a message for display selected according to a profile set up on the basis of the table is received from the server, as taught by Picco, for the purpose of selecting local content for distribution based on usage statistics.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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7. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

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on _____
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Typed or printed name of person signing this certificate:

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Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703) _____ - _____ on _____
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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher M. Lambrecht whose telephone number is (571) 272-7297. The examiner can normally be reached on 9:30 AM - 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher M Lambrecht
Examiner
Art Unit 2611

CML



HAI TRAN
PRIMARY EXAMINER